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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,630	07/03/2001	Kam Sing Chris Wong	413-010435-US(PAR)	2324
2512	7590	01/19/2005	EXAMINER	
PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			CHIANG, JACK	
			ART UNIT	PAPER NUMBER
			2642	

DATE MAILED: 01/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/898,630

Applicant(s)

WONG ET AL.

Examiner

Jack Chiang

Art Unit

2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 10 is/are rejected.
- 7) ☒ Claim(s) 4-9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

CLAIMS

112 Second Paragraph Rejection

1. Claim 1 recites the limitation "said clamping elements" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Art Rejection

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toshihiko (JP 5-37619) in view of Hsu (US 5694468).

Regarding claim 1, Toshihiko shows a cellphone holder (fig. 1) comprising:

A body part (20);

A bottom part (19);

A locking mechanism (23-25) comprising a pair of L-shaped locking elements (23-24) having a base portion (23) and a stem portion (24), the locking elements mounted on the bottom part (219) for opposing pivotal motion about parallel axis (18), the stem portions (24) frictionally engaging the cellphone (7);

A second flat resilient surface portion (29) mounted on the base portions (23), the pivotal motion of the locking elements (23-24) is actuated by insertion of the phone between the locking elements and exertion of a downward force thereon.

Toshihiko differs from the claimed invention in that it does not show a first flat resilient surface portion mounted on the stem portions for clamping the phone solely by means of friction.

However, Hsu teaches providing a phone holder having first flat resilient surface portion (15) mounted on the stem portions (121-122) for clamping the phone, and the clamping/locking function is achieved solely by means of friction.

Hence, notice that Toshihiko's clamping/locking surfaces (23-24) are designed for holding a specific phone (see 7) having specific grooves for receiving the clamping stem portions. However, Hsu's flat clamping surfaces are more generic, Hsu's design is to hold different sizes/models of phones, not just one specific phone. Therefore, it would have been obvious for one of ordinary skill in the art to use Toshihiko as it is if the user just wants to hold one type of phone, or to modify Toshihiko's clamping/locking stem portions with a flat clamping surface as taught by Hsu, this modification allows the holder to hold a phone of any size and any type at its two clamping surfaces (col. 1, lines 42-45 in Hsu).

Regarding claims 2-3, 10, the combination of Toshihiko and Hsu shows:

The locking elements (23-24) comprise two guide pins (pins 28);

The first and second surface portions are made of rubber or thermoplastic material (29 in Toshihiko, 15 in Hsu); and
the cellphone (7 in Toshihiko; radiotelephone in Hsu).

4. Claims 4-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 4-9 are allowed over the prior art of record because the claimed combination of the base claim along with the specific claimed structures recited in the respective claims.

(**NOTE:** in claim 4, lines 3-4, “two release pushers the bushings in which are fitted...” has no clear meaning. Future amendment that clarifies this problem will be entered).

ARGUMENT

5. In response to the remarks (pages 5-10) filed on 08-26, applicant mainly argues that it is not obvious to modify Wijas' latch members/slots with a soft material as in Hsu. Applicant further argues that it is hindsight and the modification is not desirable.

First, Wijas has been withdrawn. However, Toshihiko has the same concept as Wijas, although the above argument had been addressed in the previous office action, the examiner will restate the argument here, in which the examiner can agree with applicant that it may not be proper if just to replace Wijas' whole latch members with a soft material. However, that is not what the examiner proposes to do. The examiner proposes to modify Wijas' latch member with a flat latch member taught by Hsu, the soft

Art Unit: 2642

material comes with the flat latch member shown by Hsu (although claim 1 has not claimed this soft material). It is not believed that it is hindsight because Wijas shows one type of latching, and Hsu shows another type of latching, and these two types of latching are the most common in phone holders. In fact, Hsu was submitted by applicant, these are relevant references, otherwise, applicant would not pull these references out during his own search.

6. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

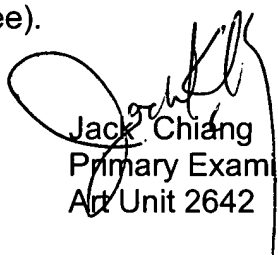
§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack Chiang whose telephone number is 703-305-4728. The examiner can normally be reached on Mon. – Fri. from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on 703-305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jack Chiang
Primary Examiner
Art Unit 2642